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September 20, 2019

VIA, ELECTRONIC FILING

The Honorable Jocelyn Boyd
Chief Clerk and Administrator
The Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

Re:
- Docket 2018-320-E
- Comments of The South Carolina Solar Business Alliance, Inc. ("SCSBA")

Ms. Boyd:

Background

On August 30, 2019, Duke Energy Progress, LLC and Duke Energy Carolinas, LLC (together, "Duke" or "the Companies") filed Comments in Response to Commission Order 2019-397, issued May 29, 2019 ("August 30 Comments"). The Commission's May 29, 2019 Directive Order permitted Duke, "…additional time to review and adjust, if necessary, aspects of the GSA Programs to conform to the provisions of the Act. Subsequent to the Companies' review, the Companies shall inform the Commission of any proposed amendments such that the Commission may conduct an appropriate proceeding to review the GSA Programs."[1]

In the August 30 Comments, Duke stated that it had made limited changes to its most recent GSA Program proposal in response to the May 29, 2019, Directive Order, including removing its request that Duke-owned renewable energy facilities could serve as GSA Facilities; amending the eligibility of the GSA Programs to customers with a minimum annual peak demand of 1,000 kW consistent with the definition of "Eligible Customer" in S.C. Code Ann. § 58-41-10(5); and amending the GSA Tariffs to state that a Renewable Supplier may be an

[1] South Carolina Public Service Commission, Docket No. 2018-320-E, *Directive Order 2019-397* (May 29, 2019).

affiliate of the Companies.[2] Duke also stated that its proposed GSA Program complies with the requirements of Act 62, specifically Section 58-41-30 which establishes the requirements for the Companies' voluntary renewable energy programs.

In light of these changes, Duke asserts that its proposed GSA Program fully complies with Section 58-41-30 and requests that this Commission "…accept the Companies' GSA Programs as meeting the requirements of S.C. Code Ann. § 58-41-30 and approve the GSA Programs and GSA Program Tariffs as modified and presented through these Comments by September 30, 2019."[3] As described below, SCSBA requests that the Commission establish a procedural schedule that provides interested parties an opportunity to comment on Duke's updated program and its compliance with Act 62, pursuant to the requirements of Section 58-41-30(A) that the Commission "conduct a proceeding to review the program and establish reasonable terms and conditions for the program" and that "interested parties shall have a right to participate in the proceeding."

Argument

The Companies filed their initial *Joint Application to Establish Green Source Advantage Programs and Riders GSA* ("GSA Program Application") on October 10, 2018, and parties to this proceeding have filed multiple rounds of comments on Duke's proposed GSA Program. With the exception of Duke's August 30 Comments, all substantive comments filed by parties in this proceeding were filed prior to the enactment of Act 62 which, as the Commission is aware, requires the Companies to establish a voluntary renewable energy program that complies with the specific requirements of Section 51-40-30.

The Companies have amended their proposed GSA Program multiple times since the initial October 10, 2018 filing. While SCSBA agrees that a number of Duke's amendments address issues that were raised by either SCSBA or the Southern Alliance for Clean Energy and the South Carolina Coastal Conservation League ("SACE/CCL"), SCSBA notes that there are a number of issues specific to Act 62 that have not been addressed in this Docket.

[2] Id. at 2.
[3] Id. at 6.

First, as Duke notes in its August 30 Comments, one of the most contested issues in the proceeding has been the Bill Credit available to participating GSA Customers. Duke has proposed two bill credit options: (1) a fixed bill credit equal to the Companies' 5-year avoided cost rate, and (2) a variable bill credit equal to the day-ahead real time hourly price. SCSBA commented on the bill credit extensively earlier in the proceeding. However, Act 62 provides additional guidance from the General Assembly regarding the appropriate duration of fixed-price renewable energy contracts set at avoided cost rates, including a requirement in Section 58-41-20(F)(1) that "Electrical utilities, subject to approval of the commission, shall offer to enter into fixed price power purchase agreements with small power producers for the purchase of energy and capacity at avoided cost, with commercially reasonable terms and a duration of ten years." Section 58-41-20(F)(2) of Act 62 also directs this Commission to consider the potential benefits of power purchase agreement terms with longer durations to "promote the state's policy of encouraging renewable energy." Interested parties should have the opportunity to provide further comment and arguments regarding the appropriate bill credit mechanism in light of South Carolina's new state policy on this issue as reflected in Act 62.

In addition to the GSA bill credit, further provisions of Section 58-41-30 established by the enactment of Act 62 have not been addressed in prior comments by parties to this proceeding. First, Section 58-41-30(A)(4) states that "eligible customers must be allowed to bundle their demand under a single participating customer agreement and renewable energy contract and must be eligible annually to procure an amount of capacity as approved by the commission." Duke's proposed program does not clearly provide whether this permits multiple customers to bundle their demand under a single customer agreement and renewable energy contract (e.g. multiple businesses could aggregate their demand under a single GSA Facility), or whether it only permits a single customer at multiple service locations to bundle their demand (e.g. a single business with multiple locations would aggregate demand). SCSBA submits that Section 58-41-30(A) permits multiple customers to aggregate their demand but notes that the answer to this question may have significant impact on the ability of eligible retail customers to participate in the GSA program. Therefore, the opportunity for interested parties to comment on this issue would assist the Commission in determining whether Duke's proposed GSA Program complies with Section 58-41-30.

Additionally, Section 58-41-30(C) allows the commission to "limit the total portion of each electrical utility's voluntary renewable energy program that is eligible for the program at a level consistent with the public interest…" Duke's initial GSA Program proposal included only 150 MW of total program capacity, and Duke has not increased that capacity level in its subsequent updates to the program. At the time that Duke filed the initial GSA program application, Duke's proposed program was only voluntary, and the 150 MW capacity limit was not tied to a specific statutory directive. However, given the specific directive of the General Assembly in Act 62 to require the utilities to establish voluntary renewable energy programs at levels consistent with the public interest, and the interest expressed by potentially-eligible customers that Duke has acknowledged in its comments,[4] SCSBA believes it would be appropriate for interested parties to have the opportunity to comment, and for the Commission to consider, whether a GSA Program offering of greater than 150 MW would be in the public interest pursuant to Section 58-41-30(C). As a point of reference, Duke's GSA Program in North Carolina provides for 600 MW of capacity under the program's enabling statute.[5]

Finally, although Duke now requests that the Commission approve its GSA Program in its current form by September 30, 2019 without the establishment of a procedural schedule for review and additional comment, Duke has previously agreed that, with respect to the utilities' proposed voluntary renewable energy program, "intervenors will have a reasonable period of time to review and comment on the utilities' programmatic filings and that all parties reserve their rights to request additional action by the Commission in these proceedings."[6] Establishing a procedural schedule to allow interested parties to provide comment on Duke's updated program in light of Act 62 is consistent with Duke's prior position on this issue.

[4] *See*, August 30 Comments, p. 4 (Noting that "the Commission has received comments from a number of prospective GSA customers expressing interest in participating in the proposed GSA Program.")
[5] *See*, N.C. Gen. Stat. § 62-159.2(d).
[6] *See*, Docket Nos. 2019-180-E; 2019-182-E; 2019-194-E; 2019-195-E; 2019-196-E; 2019-197-E; 2019-207-E; 2019-208-E; 2019-209-E; 2019-210-E; 2019-211-E; 2019-212-E; 2019-224-E; 2019-225-E; 2019-226-E; and 2019-227-E, *Joint Letter Regarding Oral Arguments*, p. 2 (Aug. 19, 2019).

For the reasons described herein, and consistent with the requirements of S.C. Code Ann. § 58-41-30, the SCSBA requests that this Commission:

1. Establish a procedural schedule for reviewing Duke's final voluntary renewable energy program proposal to ensure consistency with the requirements and goals of Act 62; and

2. Allow for participation by interested parties in this proceeding.

Respectfully submitted this 20th day of September, 2019.

WHITT LAW FIRM, LLC

/**s**/Richard L. Whitt
Richard L. Whitt,
As Counsel for the South Carolina Solar Business Alliance, Inc.

RLW/cas

cc: All parties of Record in Docket 2018-320-E, *via electronic mail*